

MS

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 AUG -5 AM 10: 02

UNITED STATES OF AMERICA,

Plaintiff,

v.

Humberto OLIVERA-Gijon,


Defendant

) Magistrate Docket No.  
) 08 MJ 2418  
) CLERK US DISTRICT COURT  
) SOUTHERN DISTRICT OF CALIFORNIA  
) COMPLAINT FOR VIOLATION OF DEPUTY  
) Title 8, U.S.C., Section 1326  
) Deported Alien Found in the  
) United States

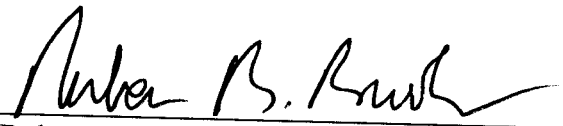
The undersigned complainant, being duly sworn, states:

On or about **August 3, 2008** within the Southern District of California, defendant, **Humberto OLIVERA-Gijon**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
\_\_\_\_\_  
SIGNATURE OF COMPLAINANT  
James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 5<sup>th</sup> DAY OF AUGUST, 2008

  
\_\_\_\_\_  
Ruben B. Brooks  
UNITED STATES MAGISTRATE JUDGE

DOA  
8/3/08  
KMT

**CONTINUATION OF COMPLAINT:**  
**Humberto OLIVERA-Gijon**

**PROBABLE CAUSE STATEMENT**

On August 3, 2008, Border Patrol Agent M. Damian and Agent J. Waterman were performing Border Patrol duties in the Pine Valley Border Patrol Station Area of Operations. At approximately 10:45 a.m., Agent Waterman and Agent Damian responded to a seismic intrusion device located Northeast of the Tecate, California Port of Entry.

Agent Waterman and Agent Damian arrived in the area were able to locate fresh footprints. Agent Waterman and Agent Damian followed the footprints north on a trail until Agent Damian found five individuals trying to hide under some thick brush including one who was later identified as the defendant **Humberto OLIVERA-Gijon**. Agent Waterman and Agent Damian identified themselves as United States Border Patrol Agents and began questioning each of the individuals as to their immigration status. Each person including the defendant stated that they were citizens and nationals of Mexico without any immigration documents allowing them to enter or remain legally in the United States. All five individuals were arrested and transported to the Pine Valley Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **July 28, 2008** through San Ysidro, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. He also stated he was going to San Diego, California.